

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL C. DAVIS,  
Plaintiff,

v.

BOSS/MASC,  
Defendants.

Case No. C 07-4524 JL

ORDER DENYING MOTION FOR  
RECONSIDERATION (Docket # 11)

This Court previously ordered Plaintiff to amend his complaint within thirty days of October 22, 2007 "to show whether he has exhausted his administrative remedies by filing a timely claim with the Social Security Administration, and received an unfavorable disposition sixty days or less prior to the filing of his complaint, or that there is some other legitimate reason his case should remain in this Court." Unfortunately, Plaintiff failed to amend his complaint in a timely manner, and filed nothing in response to the Court's order. The Court was forced to deny without prejudice his motion for appointment of counsel at Docket # 6. The Court, however, did grant the application to proceed *in forma pauperis*. Plaintiff served Defendant Social Security Administration on January 18, 2008 and defense counsel entered an appearance.

Plaintiff filed a motion for reconsideration of the Court's decision on his motion for appointment of counsel, on the basis of special circumstances. Plaintiff did not request

1 leave of court before filing the motion for reconsideration. In view of his unrepresented  
2 status, the court overlooks the procedural lapse and proceeds to analyze the merits of  
3 his motion.

4 Civil Local Rule 7-9 provides these requirements for filing a motion for leave to  
5 file a motion for reconsideration:

6 (b) Form and Content of Motion for Leave. A motion for leave to file a motion for  
7 reconsideration must be made in accordance with the requirements of Civil L.R.  
8 7-9. The moving party must specifically show:

9 (1) That at the time of the motion for leave, a material difference in fact or law  
10 exists from that which was presented to the Court before entry of the  
11 interlocutory order for which reconsideration is sought. The party also must show  
12 that in the exercise of reasonable diligence the party applying for reconsideration  
13 did not know such fact or law at the time of the interlocutory order; or

14 (2) The emergence of new material facts or a change of law occurring after the  
15 time of such order; or

16 (3) A manifest failure by the Court to consider material facts or dispositive legal  
17 arguments which were presented to the Court before such interlocutory order.

18 (c) Prohibition Against Repetition of Argument. No motion for leave to file a  
19 motion for reconsideration may repeat any oral or written argument made by the  
20 applying party in support of or in opposition to the interlocutory order which the  
21 party now seeks to have reconsidered. Any party who violates this restriction  
22 shall be subject to appropriate sanctions.

23 In this case, Plaintiff in fact violates section 7-9 (c) when he repeats his earlier  
24 arguments, that he did not receive his Social Security benefits from his payee, who  
25 claimed to have returned the money to the Social Security Administration after Plaintiff  
26 temporarily moved from the area, and that the Social Security Administration denied  
27 receiving the money from his payee, leaving him without the benefits for that time  
28 period. He also contends once again that he exhausted all available administrative  
remedies, within showing specifically how he claims to have done so.

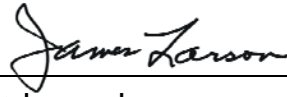
These are mere repetitions of his previous arguments, without the specific  
showing ordered by the Court and are not sufficient to provide a foundation for the Court  
to conclude that he has any merit to his case, sufficient to justify obtaining pro bono

1 counsel.

2 Accordingly, the Court has no choice but to deny the motion.

3 IT IS SO ORDERED.

4 DATED: January 28, 2008

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6 

7 James Larson  
8 Chief Magistrate Judge

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